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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte*, WC Docket No 17-108

Dear Ms. Dortch:

This is to inform you that on November 8, 2017, Abigail Slater, General Counsel, and Dr. Christopher Hooton, Chief Economist of Internet Association ("IA") and the undersigned (collectively, "IA Representatives") met with the following Commission staff in connection with the above-captioned proceeding: (1) Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Rosenworcel; (2) Claude Aiken, Legal Advisor to Commissioner Clyburn; and (3) Kris Monteith, Bureau Chief, and Madeleine Findley, Eric Ralph, Daniel Kahn, Joseph Calascione, and Melissa Kirkel of the Wireline Competition Bureau. In addition, on November 9, 2017, the same IA Representatives met with (1) Dr. Jay Schwarz, Wireline Advisor to Chairman Pai, and (2) Jamie Susskind, Chief of Staff and Legal Advisor to Commissioner Carr.

The IA Representatives discussed IA's position (as expressed in its prior filings in this proceeding¹) that the existing FCC open internet rules adopted in 2015² are working as intended, and that the rules and the firm legal basis upon which they rest should not be undone or revisited. Having clear, legally sustainable rules in place finally

¹ See Comments of Internet Association, WC Docket No. 17-108 (filed July 17, 2017) ("IA

² *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC 15-24, 30 FCC Rcd 5601 (2015) ("2015 Open Internet Order").

established rules of the road and provided legal certainty for ISPs, edge providers, and consumers alike. Weakening these existing net neutrality rules or denying them a solid legal foundation will harm consumers and innovators alike.

The IA Representatives also discussed the lack of empirical evidence in the record showing negative impacts following the 2015 Open Internet Order despite the *Notice of Proposed Rulemaking's* call for new, original empirical analysis utilizing data and, preferably, cost-benefit analysis of existing net neutrality rules. In particular, Dr. Hooton explained the key findings from IA's own economic analysis as well as his review and conclusions from third-party economic analyses. He explained that IA submitted the most comprehensive econometric analysis, examining numerous relevant variables for evidence of a reduction in ISP investment.³ IA examined fifteen individual metrics for telecom investment and its corollaries in approximately twenty econometric and analytical tests along with variations for each for both a 2010 and 2015 trigger wherever the data would allow. Across the range of analyses, there was no statistical evidence and no descriptive/suggestive evidence indicating negative impacts from the 2015 Open Internet Order. Dr. Hooton also discussed the shortcomings of the critiques offered since IA submitted its analysis, explained in further detail in a prior submission in this proceeding.⁴

The IA Representatives also explained that the other submissions examining economic issues or argumentation rely on theory and not original empirical analysis. This lack of empirical evidence showing negative impact of the 2015 Open Internet Order reflects the extreme difficulty of determining causal impacts from such a recent order, which is consistent with the primary arguments and findings of IA's economic analysis. Indeed, the ISPs' own filings in this proceeding concede that there is no clear empirical evidence that the 2015 Open Internet Order has resulted in decreased investment in ISP networks.⁵ The IA Representatives also noted that IA's findings are consistent with the public statements of ISPs, both to investment analysts and

³ Dr. Christopher Hooton, *An Empirical Investigation of the Impacts of Net Neutrality*, filed as an Attachment to IA Comments, WC Docket No. 17-108 (filed July 17, 2017). The filing, economic analysis, and summaries can be found at: <https://internetassociation.org/reports/an-empirical-investigation-of-the-impacts-of-net-neutrality/> (summary), <https://cdn1.internetassociation.org/wp-content/uploads/2017/07/IA-Net-Neutrality-Comments-Docket-17-108-F.pdf> (full report).

⁴ Ex Parte Filing by Internet Association, WC Docket No. 17-108 (filed Aug. 30, 2017).

⁵ IA Reply Comments at 15-16; "White Paper on APA Issues Related to the Proposed Reclassification of Internet Services," Attachment to Ex Parte filing by AT&T, WC Docket No. 17-108, at 2 (Sep. 27, 2017) ("Here, such costs [of foregone investment and innovation] are indeed difficult to quantify.").

regulators, and with ordinary course documents and other qualitative evidence that confirm that the 2015 Open Internet Order has not affected ISPs' investment decisions.⁶

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, reading "T. Devendra Kumar". The signature is written in a cursive style with a long horizontal stroke at the end.

Devendra T. Kumar
Counsel to Internet Association

CC: Travis Litman
Claude Aiken
Dr. Jay Schwarz
Jamie Susskind
Kris Monteith
Madeleine Findley
Eric Ralph
Daniel Kahn
Joseph Calascione
Melissa Kirkel

⁶ IA Comments at 14-15.